

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARTIN LOPEZ)	
Claimant)	
VS.)	
)	Docket No. 217,505
NORTH AMERICAN SALT COMPANY)	
Respondent)	
AND)	
)	
RELIANCE NATIONAL INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier requested review of the preliminary hearing Order dated November 10, 1997, entered by Administrative Law Judge Bruce E. Moore.

ISSUES

The Administrative Law Judge ordered an independent medical examination (IME) of claimant to be performed by a neutral physician pursuant to K.S.A. 44-516 and payment of certain past medical treatment expenses as authorized medical expenses. Claimant's other requests for preliminary hearing benefits were taken under advisement pending receipt of the IME report. Respondent and its insurance carrier requested the Appeals Board to review the issue of whether claimant was entitled to an award of past medical care as authorized if authorized care was being provided by respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

This is an appeal from a preliminary hearing. K.S.A. 1997 Supp. 44-551 limits the jurisdiction of the Appeals Board. The Appeals Board has jurisdiction to review decisions from a preliminary hearing in those cases where one of the parties has alleged the administrative law judge exceeded his or her jurisdiction. This includes the specific jurisdictional issues identified in K.S.A. 1997 Supp. 44-534a. In its brief to the Appeals Board, respondent does not dispute the compensability of the claim or argue that the medical treatment was not for the alleged work-related injury. Therefore, this appeal does not give rise to a jurisdictional issue. A contention that the Administrative Law Judge erred in his finding that the evidence showed a need for medical treatment and that certain past medical treatment expenses should be paid as authorized benefits are not issues the Appeals Board has jurisdiction to consider on an appeal from a preliminary hearing order. K.S.A. 1997 Supp. 44-534a grants authority to an administrative law judge to decide issues concerning the furnishing of medical treatment, including the payment of past medical compensation. The Appeals Board decisions cited by respondent in its brief were appeals from final awards, not from preliminary hearing orders.

The respondent and its insurance carrier may preserve these issues for final award as provided by K.S.A. 1997 Supp. 44-534a(a)(2). That statute provides in pertinent part:

Except as provided in this section, no such preliminary findings or preliminary awards shall be appealable by any party to the proceedings, and the same shall not be binding in a full hearing on the claim, but shall be subject to a full presentation of the facts.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that it does not have jurisdiction to review at this juncture of the proceedings the preliminary hearing Order dated November 10, 1997, entered by Administrative Law Judge Bruce E. Moore and that this review should be, and hereby is, dismissed.

IT IS SO ORDERED.

Dated this ____ day of February 1998.

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS
Jeffrey S. Austin, Overland Park, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director